

and take orders from him for the duties which he is to perform, and in the absence of said commander he shall, as required by the said commander, report fully to the board of public works.<sup>1</sup>

### Locating Oyster Lots.

An. Code, 1924, sec. 49. 1912, sec. 47. 1904, sec. 46. 1894, ch. 380, sec. 46. 1898, chs. 18 and 274. 1904, ch. 598. 1906, ch. 367. 1908, ch. 529.

50. The owner of any land bordering on any of the navigable waters of this State, the lines of which extend into and are covered by said waters, shall have the exclusive privilege of using the same for protecting, sowing, bedding or depositing oysters or other shell fish within the lines of his own land; and any owner of land lying and bordering upon any of the waters of this State shall have power to locate and appropriate in any of the waters adjoining his lands one lot of five acres for the purpose of protecting, preserving, depositing, bedding or sowing oysters or other shell fish; and any male or female citizen of full age, of the county wherein he or she resides, shall have power to locate and appropriate and hold one lot of five acres and no more in any waters in this State not located or appropriated; provided, thirty days' notice in writing shall be given the owner or occupant of land bordering on said waters proposed to be located, that the owner or occupant may have priority of claim; and if such owner or occupant shall fail to locate or appropriate the water mentioned in said notice within thirty days after receiving the same, then it shall be open and free to any one, under the provisions of this section; provided, also that the said location or appropriation shall be described by stakes, bushes and with the name of the owner on a board fastened to a pole or stake on or within the appropriated oyster land, or by the proper and visible metes and bounds, which description shall be reduced to writing under the oath of some competent surveyor and recorded, at the expense of the party locating or appropriating the same, in the office of the clerk of the circuit court for the county wherein such land may be located; and provided also that such location and appropriation shall not injure, obstruct or impede the free navigation of said waters; and provided that no natural bar or bed of oysters shall be so located or appropriated that twelve months' peaceable possession of all locations of oyster grounds, under the laws of this State, shall constitute a good and sufficient title thereto; but should any one within twelve months be charged with locating or appropriating any natural bed or bar hereinbefore prohibited, the question may be at once submitted by any person interested to the judge of the circuit court for the county where such question shall arise, who, after having given notice to the parties interested, shall proceed to hear the testimony and decide the case; and if his decision be in favor of the party locating said five acres, said decision shall be recorded with the original record of said five acres and shall in all cases be conclusive evidence of title thereto; provided also that if any stakes or bushes used as bounds shall be removed by accident or design, it shall not excuse any person from wrongfully taking such oysters if he knew the grounds to have been located and appropriated; but any title or pretended title to more than five acres, or otherwise contrary to this section, held or claimed by any person is hereby

<sup>1</sup> Secs. 37-49 repealed by Ch. 353, 1939, but as this Act will be voted on at the November election, 1940, under petition, these sections will not be repealed unless said Ch. 353 is approved at said election. If said Act is approved, these sections will be repealed as of Dec. 5, 1940.